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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/807,171

03/24/2004

Craig William Shaw

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09/11/2008

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EXAMINER

ROBINSON, DANIEL LEON

ART UNIT

PAPER NUMBER

3742

MAIL DATE

DELIVERY MODE

09/11/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/807,171	<b>Applicant(s)</b> SHAW ET AL.	
	<b>Examiner</b> DANIEL L. ROBINSON	<b>Art Unit</b> 3742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,2,4,7,8 and 10-26 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) 3,5,6 and 9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3-24-2004</u> .   | 6) <input type="checkbox"/> Other: _____                          |

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4, 7, 8, 10, 11, 17 and 20 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Rizvi et al.(U.S.Pat.5,417,992).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12-14 and 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rizvi in view of Shefet(U.S.Pat.7,040,974). Rizvi discloses a supercritical fluid extrusion process and apparatus that shows many of the features of the claimed invention but fails to explicitly show processing raw meat such as fish or poultry. Shefet discloses a casingless food production methods and systems and associated traveling matable mold shells that explicitly shows processing raw meat such as fish or poultry. It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to process fish and poultry as taught by Shefet so as to make sausages.

Claims 15, 16, 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rizvi in view of Miller(U.S.Pat.5,186,0908). Rizvi does not explicitly show using a bag at an outlet of the apparatus. Miller discloses an apparatus for buttering and applying cheese toppings to bread that explicitly shows using a bag. It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to use a bag as taught by Miller with the apparatus of Rizvi because the bag can receive a food item.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rizvi in view of Kuehl et al.(U.S.Pat.6,689,406). Rizvi does not explicitly show a moisture content of about 5-10 percent. Kuehl discloses a chocolate coating and processing device for same that explicitly shows processing a food with a about a 5-10 percent moisture content. It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to process said moisture content as taught by Kuehl so as to process both fat with a confectionary content.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rizvi in view of Wu et al.(U.S.Pat.6,183,799). Rizvi does not explicitly show a moisture content of about 5-10 percent. Wu discloses candy extrusion and processing device for same that explicitly shows processing a food with a about a 45-55 percent moisture content. It would have been obvious to one of ordinary skill at the time of the claimed invention to process said moisture content as taught by Wu so as to process both sugar and water.

Claims 17 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rezvi in view of Ou-Young(U.S.Pat.6,321,642). Rezvi does not explicitly show processing a stuffing material. Ou-Young discloses a filling mechanism for food stuffing which explicitly shows processing a stuffing product. It would have been obvious at the time of the claimed invention to process a stuffing product because the stuffing can be processed without de-oiling.

***Allowable Subject Matter***

Claims 3, 5, 6 and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL L. ROBINSON whose telephone number is (571)272-4788. The examiner can normally be reached on m-f 5:30-2:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu B Hoang can be reached on 571-272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3742

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Dlr  
/Daniel L Robinson/  
Primary Examiner, Art Unit 3742